

## REMARKS

Applicant has amended the specification and claim 1, 3, 13-15, 25 and 27. No new matter has been added by way of this amendment. In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested

The Office has objected to claims 14 and 15 asserting that they seem as if they are supposed to be dependent claims of claim 13 instead of claim 1. Accordingly, Applicant has amended claims 14 and 15 to depend from claim 13. In view of the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw this objection.

The Office has rejected claims 1-2, 8, 10-14, 20, 22-26, 32, 34-36 under 35 U.S.C. 102(e) as being anticipated by US Patent Publication No. 2003/0110234 to Egli et al. (Egli). The Office asserts Egli discloses a system ([0058], lines 4-7) with: an assessment system that obtains content presentation environment information associated with the client system ([0066], lines 1-4, [0068], lines 17-20), wherein the content presentation environment information is based on an operating environment evaluation of the client system performed by an evaluation system ([0058], lines 7-12); and a content processing system that selects one of a plurality of versions of the content to send the client system using the obtained content presentation environment information ([0060], lines 1-6).

Egli does not disclose or suggest, “an evaluation system interrogating the client system to obtain the content presentation system” as recited in claim 1, “interrogating the client system to obtain content presentation environment information associated with the client system” as recited in claim 13, or “interrogating the client system to obtain content presentation environment information associated with the client system” as recited in claim 25.

The Office’s attention is respectfully directed to FIG. 3 and paragraphs [0068] and [0069] in Egli which recite:

[0068] During basic system operation, items containing and/or referencing media content (e.g., Web pages) on the Internet server 330 are encoded with a URL that directs clients requesting such items to the system 320. The Internet server 330 may also include the original items of media

content, which may be any type of content including digital images, video, audio, documents, "blob" objects, or the like. Alternatively, original items of media content may be stored locally on the system 320 or on another local or remote server to which the system 320 is connected. When a request (e.g., HTTP request) for an item of content is made by the client 301, the request is routed to the client capabilities module 322 of the media delivery system 320. Responsive to the request received from the client device 301, the client capabilities module 322 identifies the (client) device and obtains available information about the device's capabilities. Based on this identification, the client capabilities module 322 retrieves additional information about the capabilities of the client device for displaying or outputting media from the data store 324.

[0069] The data store 324 includes media output capabilities of various devices. In the currently preferred embodiment, a corresponding device identifier is employed to index this information. The capabilities stored in data store 324 include information regarding screen resolution, screen color depth, whether images should be rotated to fit on the device's screen display, and other such information as described in more detail below. The data store 324 is field upgradable so that as new devices are introduced into the market, the profiles of such devices and their capabilities can be added. The client capabilities log 323 includes a record of any client devices that could not be identified or for which capabilities are not available. These log records enable any omitted devices to be identified so that information on these devices can be obtained and added to the data store 324. (Emphasis added).

Additionally, the Office's attention is respectfully directed to FIGS. 4A and 4B and paragraphs [0072] - [0081] in Egli which describe in greater detail the process for detecting capabilities of devices. As illustrated in FIGS. 3, 4A, and 4B and described in the paragraphs identified above in Egli, the media delivery system 320 determines the media output capabilities of the client device based on the received request which is used to identify information about the client device stored in data store 324 in media delivery system 320. There simply is no discussion or teaching in Egli of any type of interrogation of the client device by the media delivery system. As a result, the information obtained by the media delivery system 320 from its own memory may be mismatched to the client device, may be outdated, and can not take into account the current connection status and capabilities which exist at the time of the request. In sharp contrast, the present invention provides a highly accurate method and system for providing the most accurate evaluation of the video capabilities of the client device so the most appropriate content can be seamlessly provided to the client device.

Accordingly, in view of the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw the rejection of claim 1, 13, and 25. Since

claims 2, 8, and 10-12 depend from and contain the limitations of claim 1, claims 14, 20, and 22-24 depend from and contain the limitations of claim 13, and claims 26, 32, and 34-36 depend from and contain the limitations of claim 25.

The Office has rejected claims 3-6, 15-18, and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Egli in view of US Patent No. 6,256,669 to Hurwitz (Hurwitz). The Office acknowledges that Egli does not disclose one of a current content transfer rate for the client system, but asserts Hurwitz discloses one of a current content transfer rate for the client system (summary of the invention, column 2, lines 14-23).

Neither Egli nor Hurwitz, alone or in combination, disclose or suggest, “wherein the evaluation system performs the operating environment evaluation of the client system by determining two or more of a current content transfer rate for the client system, one or more types or versions of one or more Web browsers associated with the client system, one or more types or versions of one or more content presentation applications associated with the client system, and one or more types or versions of one or more operating systems associated with the client system” as recited claim 3, “wherein the obtaining content presentation environment information associated with the client system comprises performing the operating environment evaluation of the client system by determining two or more of a current content transfer rate for the client system, one or more types or versions of one or more Web browsers associated with the client system, one or more types or versions of one or more content presentation applications associated with the client system, and one or more types or versions of one or more operating systems associated with the client system” as recited in claim 15, or “wherein the obtaining content presentation environment information associated with the client system comprises performing the operating environment evaluation of the client system by determining two or more of a current content transfer rate for the client system, one or more types or versions of one or more Web browsers associated with the client system, one or more types or versions of one or more content presentation applications associated with the client system, and one or more types or versions of one or more operating systems associated with the client system” as recited in claim 27.

As the Office has acknowledged, Egli does not teach determining current content transfer rate for the client system, one or more types or versions of one or more Web browsers associated with the client system, one or more types or versions of one or more content presentation applications associated with the client system, and one or more types or

versions of one or more operating systems associated with the client system. The Office has asserted that Hurwitz teaches determining current content transfer rate for the client system, however as now amended Hurwitz does not teach or suggest, determining two or more of one or more types or versions of one or more Web browsers associated with the client system, one or more types or versions of one or more content presentation applications associated with the client system, and one or more types or versions of one or more operating systems associated with the client system.

Accordingly, in view of the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw the rejection of claim 3, 15, and 27. Since claims 4-6 depend from and contain the limitations of claim 3, claims 16-18 depend from and contain the limitations of claim 15, and claims 28-30 depend from and contain the limitations of claim 27.

The Office has rejected claims 7, 9, 19, 21, 31, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Egli in view of US Patent Publication No. 2005/0015551 Eames et al. (Eames). Applicant respectfully traverses the rejection because Eames is not prior art with respect to the above-identified patent application. The above-identified patent application claims priority to US Provisional Patent Application Serial No. 60/455,601 filed on March 19, 2003, which is several months before the July 18, 2003 filing date of the Eames reference. Accordingly, in view of the foregoing remarks, the Office is respectfully requested to reconsider and withdraw the rejection of claim 7, 9, 19, 21, 31, and 33.

In view of all of the foregoing, Applicant submits that this case is in condition for allowance and such allowance is earnestly solicited

Respectfully submitted,

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